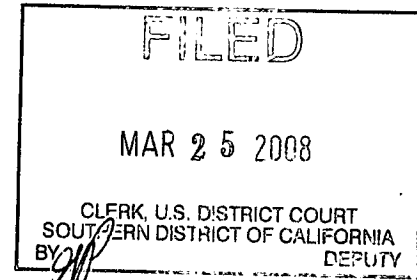


ORIGINAL

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UNITED STATES OF AMERICA



8 UNITED STATES DISTRICT COURT
9
10 SOUTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,) Criminal Case No. 08CR0248-L
12)
Plaintiff,)
13)
v.)
14)
GABRIEL CASTRO,)
15)
Defendant.)

**STIPULATION OF FACT AND JOINT
MOTION FOR RELEASE OF
MATERIAL WITNESS AND ORDER
THEREON**

16 IT IS HEREBY STIPULATED AND AGREED between the plaintiff,
17 UNITED STATES OF AMERICA, by and through its counsel, Karen P. Hewitt, United States
18 Attorney, and Randy K. Jones, Assistant United States Attorney, and defendant GABRIEL
19 CASTRO, by and through and with the advice and consent of defense counsel, Martin Molina, that:

- 20 1. Defendant agrees to execute this stipulation and to participate in a full and complete
21 inquiry by the Court into whether defendant knowingly, intelligently and voluntarily entered into it.
- 22 2. The material witness, A.G.R., a juvenile, in this case:
- 23 a. Is an alien with no lawful right to enter or remain in the United States;
- 24 b. Entered or attempted to enter the United States illegally on or about
25 January 15, 2008;
- 26 c. Was found in a vehicle driven by Defendant at the San Ysidro, California Port
27 of Entry (POE) and that defendant knew or acted in reckless disregard of the fact that he was an alien
28 with no lawful right to enter or remain in the United States;

1 d. Was paying or having others pay on the alien's behalf \$2,500.00 to others to
2 be brought into the United States illegally and/or transported illegally to his destination therein; and,

3 e. May be released and remanded immediately to the Department of Homeland
4 Security for return to his country of origin.

5 3. After the material witness is ordered released by the Court pursuant to this stipulation
6 and joint motion, if defendant withdraws his guilty plea to the charge of bringing in an alien without
7 presentation, in violation of 8 U.S.C. § 1324(a)(2)(B)(iii), defendant agrees that in any proceeding,
8 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

9 a. The stipulated facts set forth in paragraph 2 above shall be admitted as
10 substantive evidence;

11 b. The United States may elicit hearsay testimony from arresting agents
12 regarding any statements made by the material witness provided in discovery, and such testimony
13 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest
14 of (an) unavailable witness(es); and,

15 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
16 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted
17 and cross-examined the witness who made the "testimonial" hearsay statements, defendant waives
18 the right to confront and cross-examine the material witness in this case.

19 4. By signing this stipulation and joint motion, defendant certifies that defendant has
20 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
21 further that defendant has discussed the terms of this stipulation and joint motion with defense
22 counsel and fully understands its meaning and effect.

23 //

24 //

25 //

26 //

27
28 Stipulation of Fact and Joint Motion for Release of
Material Witness And Order Thereon in
United States v. Gabriel Castro

1 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
2 immediate release and remand of the above-named material witness to the Department of Homeland
3 Security for his transfer and delivery to the custody of the Mexican Consulate in San Diego, for his
4 proper return to his country of origin.

5 It is STIPULATED AND AGREED this date.

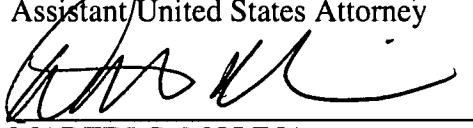
6 Respectfully submitted,

7 KAREN P. HEWITT
United States Attorney

8
9 Dated: 3/25/08

10 
RANDY K. JONES
Assistant United States Attorney

11 Dated: March 25, 2008

12 
MARTIN G. MOLINA
Defense Counsel for Gabriel Castro

13
14 Dated: 3/25/08

15 
GABRIEL CASTRO
Defendant

ORDER


Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness be released and remanded forthwith to the Department of Homeland Security for his transfer and delivery to the custody of the Mexican Consulate in San Diego, for his proper return to A.G.R., a juvenile's country of origin.

SO ORDERED.

Dated: 3-25-08


HONORABLE NITA L. STORMES
United States District Judge